

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 69496

Meredith R. Howard Jr. (deceased)
c/o George Oswinkle
4316 Belair Road
Baltimore MD 21206

1756 Forrest Avenue

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Baltimore County Code Enforcement Hearing Officer on July 21, 2010 for a Hearing on a citation for violations under the Baltimore County Code (BCC) section 13-7-310, 312, 201; Baltimore County Zoning Regulations (BCZR) section 101, 102.1; International Building Code (IBC) section 115, Baltimore County Building Code (BCBC) section 1154, failure to remove open dump conditions, failure to remove unlicensed vehicles, failure to remove unlicensed recreational vehicle, failure to remove commercial vehicle, failure to board up and secure all openings to house, garage and sheds, failure to remove stagnant pool water and fill in collapsing pool on residential property zoned DR 5.5 known as 1756 Forrest Avenue, 21234.

On May 12, 2010, pursuant to § 3-6-205, Baltimore County Code, Inspector Jeffrey Radcliffe issued a Code Enforcement & Inspections Citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$50,000.00 (fifty thousand dollars).

The following persons appeared for the Hearing and testified: George Oswinkle, Esquire, representing the estate of Meredith R. Howard Jr., deceased and, Jeffrey Radcliffe, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence presented, the Hearing Officer finds:

A. A Correction Notice was issued on April 26, 2010 to cease stagnant pool water, remove/repair unsafe structure, board and secure all openings to house, garage and shed, fill in pool (walls collapsing). This Citation was issued on May 12, 2010. This Hearing was rescheduled at the request of the Respondent.

B. Inspector Jeff Radcliffe testified that this property is vacant and appears abandoned. The County has had to cut the grass at the owner's expense. Some of the junk and vehicles have been removed from the property but this Citation was issued because there are still open dump conditions, untagged vehicles, and recreational vehicles on the property; the house is not secure and people are getting into it; there is an abandoned swimming pool with water in it, and there is no fence to secure the pool. He further testified that grass and weeds have grown up around some of the junk and vehicles and obscured them from view.

C. Mr. George Oswinkle, Esq., is the personal representative of the estate of the deceased property owner, Mr. Meredith Howard, and is also the resident agent for the estate. Mr. Oswinkle testified that Mr. Howard died on December 27, 2005 and left no descendants or living relatives, and left a lot of unpaid debts. Other attorneys handled the case prior to Mr. Oswinkle taking it over. The only asset of the estate is the house, and there is no cash in the estate to pay for expenses. Mr. Oswinkle has been doing some mowing and maintenance personally. There was a contract of sale prior to Mr. Howard's death but it did not go to settlement because of unpaid liens. A second purchase was arranged in 2008 but it has not been completed; one of the purchasers, a member of the military, has died and Mr. Oswinkle does not know if the widow will complete the purchase. Mr. Oswinkle provided a list of unpaid liens and testified that the debt is double the value of the house. He is attempting to remove or resolve various liens and has reduced the number of liens to five. He requested additional time to correct the code violations.

D. The house is vacant. Because it has been vacant for more than six months, this property is classified as an "investment property" under County law. BCC Section 35-2-401. Photographs in the file show at least one open door either in the house or in a shed. The inspector testified that the structures on the property are not closed and secured. Respondents are required by law to maintain this property in conformance with County code standards, including keeping it weathertight with roof, soffits, windows and doors in good repair. BCC Section 35-2-404. The property needs immediate work to make all structures secure from human or animal encroachment.

E. Evidence presented shows that there is an old swimming pool that is dangerous and that contains stagnant water. The pool must either be cleaned and secured with a fence, or emptied and filled in with appropriate material. Property owners must maintain their premises in a clean, safe and sanitary condition free from infestation. Baltimore County Code Section 35-5-302. Stagnant water as observed here breeds mosquitos and other public health hazards. For safety reasons, County law requires safety enclosures at least four feet high for swimming pools that contain 24 inches or more of water in depth. BCC Section 13-6-101(a), (b). Code requirements for a pool fence include self-closing gates with latches that are at least four feet above the ground or otherwise made inaccessible from the outside to small children. BCC Section 13-6-101(c).

F. Photographs in the file show junk, trash, debris, and household items on the property. This violates prohibitions against the accumulation of junk, trash and debris on residential property, and prohibitions against creation of possible harborage for rats. BCC Section 13-4-201, Section 13-7-309, Section 13-7-310. Photographs show vehicles and trailers on the property, and a boat on a trailer. County zoning regulations prohibit the outside storage of inoperative motor vehicles on a residential lot. BCZR Section 428.1(A). The outside storage of unlicensed motor vehicles is also prohibited, except for one vehicle per dwelling unit for a period not exceeding 15 days in any calendar year. Section 428.1(B). Respondent has exceeded this limitation. Respondent must put valid tags on the vehicles and make them operable, or remove them from the property. The recreational trailer and boat can be stored outside in certain locations on a residential lot, but must have a current license. BCZR Section 415A.1.

G. In view of the circumstances of this property, with the property still owned by a decedent's estate and no funds currently available from the estate to pay for maintenance or cleanup, it would not be productive to impose civil penalties for the code violations. However, some safety and security corrections must be made promptly, and the community should not have to wait indefinitely for the other violations to be corrected. Therefore, while this Citation will be enforced, only a token penalty will be imposed and the County will be authorized to make corrections if necessary, at the expense of the property owner.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$100.00 (one hundred dollars).

IT IS FURTHER ORDERED that the civil penalty will be RESCINDED and reduced to zero dollars if the code violations are corrected by December 1, 2010.

IT IS FURTHER ORDERED that after July 29, 2010, the County may enter the property for the purpose of abating the stagnant water and dangerous pool violations (by treating the water and securing the site; or by removing the water; or by filling the pool with appropriate material), at the expense of the property owner.

IT IS FURTHER ORDERED that after August 23, 2010, the County may enter the property for the purpose of boarding or otherwise securing all windows and doors, at the expense of the property owner.

IT IS FURTHER ORDERED that after October 1, 2010, the County may enter the property for the purpose of removing all junk, trash, debris, untagged or inoperative motor vehicles, unlicensed recreational vehicles, and untagged trailers, at the expense of the property owner.

IT IS FURTHER ORDERED that if not paid within thirty days of billing, the civil penalty AND any expenses incurred by Baltimore County, as authorized above, shall be imposed and placed as a lien upon the property.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 26th day of July 2010

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.